

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Government,

HONORABLE GEORGE CARAM STEEH

v.

No. 15-20652

D-1 BILLY DARRELL ARNOLD,
D-2 STEVE RUMEAL ARTHUR,
D-3 EUGENE FISHER,
D-4 COREY BAILEY,
D-5 QUINCY GRAHAM,
D-6 ROBERT BROWN, II
D-7 JEROME GOOCH,
D-8 MICHAEL ROGERS,
D-9 DERRICK KENNEDY,

Defendants.

STATUS CONFERENCE

Monday, November 21, 2016

- - -

APPEARANCES:

For the Government:

CHRISTOPHER GRAVELINE, ESQ.
Assistant U.S. Attorney

For the Defendants:

MARIA MANNARINO, ESQ.
ERIC K. KOSELKE, ESQ.
On behalf of Billy Arnold

JOHN M. MCMANUS, ESQ.
On behalf of Steve Arthur

HENRY SCHARG, ESQ.
On behalf of Eugene Fisher

JOHN MINOCK, ESQ.
KEITH SPIELFOGEL, ESQ.
On behalf of Corey Bailey

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MICHAEL A. RATAJ, ESQ.
On behalf of Quincy Graham

JAMES L. FEINBERG, ESQ.
On behalf of Robert Brown, II

CHRISTOPHER M. SEIKALY, ESQ.
On behalf of Jerome Gooch

DOUGLAS R. MULLKOFF, ESQ.
On behalf of Michael Rogers

BARTON W. MORRIS, JR.
On behalf of Derrick Kennedy

- - -

To Obtain Certified Transcript, Contact:
Ronald A. DiBartolomeo, Official Court Reporter
Theodore Levin United States Courthouse
231 West Lafayette Boulevard, Room 1067
Detroit, Michigan 48226
(313) 962-1234

Proceedings recorded by mechanical stenography.
Transcript produced by computer-aided transcription.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

	<u>Page</u>
Status Conference	4

E X H B I T S

<u>Identification</u>	<u>Offered</u>	<u>Received</u>
-----------------------	----------------	-----------------

N O N E

Detroit, Michigan

Monday, November 21, 2016

- - -

THE CLERK: Case Number 15-20652, United States of America versus Billy Arnold, Steven Arthur, Eugene Fisher, Corey Bailey, Quincy Graham, Robert Brown, Jerome Gooch, Michael Rogers, Derrick Kennedy.

THE COURT: Good morning.

MR. GRAVELINE: Chris Graveline and Raj Prasad on behalf of the United States, your Honor.

THE COURT: Welcome.

MR. MORRIS: Barton Morris on behalf of Derrick Kennedy.

MS. MANNARINO: Good morning. Maria Mannarino on behalf of Defendant Number 1, Mr. Billy Arnold.

MR. KOSELKE: Good morning. Eric Koselke on behalf of Billy Arnold.

MR. MCMANUS: Your Honor, John McManus for Steven Arthur. Good morning.

MR. RATAJ: Good morning, your Honor. Mike Rataj on behalf of Mr. Quincy Graham.

MR. MULLKOFF: Doug Mullkoff on behalf of Michael Rogers.

15-20652; USA v. BILLY ARNOLD, ET AL

1 **MR. SEIKALY:** Christopher Seikaly on behalf
2 of Jerome Gooch.

3 **MR. SCHARG:** Good morning, your Honor. Henry
4 Scharg on behalf of Eugene Fisher, Number 3 on the
5 indictment.

6 **MR. MINOCK:** Good morning. If it please the
7 Court, John Minock on behalf of Corey Bailey.

8 **MR. FEINBERG:** James L. Feinberg, attorney
9 for Robert Brown.

10 **THE COURT:** Mr. Spielfogel is on the phone.
11 He's learned counsel for Mr. Bailey.

12 **MR. SPIELFOGEL:** Yes, I am. Good morning.

13 **MR. FEINBERG:** Your Honor, I have learned
14 counsel Jack Martin. Apparently he has not called in, and
15 he is not here. I don't know what his status or his
16 preference is.

17 **THE COURT:** Okay.

18 **MR. FEINBERG:** It was suggested by the
19 marshals that the attorneys sit behind their clients in
20 the jury box. So that's why I'm here.

21 **THE COURT:** That's fine. Anybody else want
22 to do that, that's fine.

23 **MR. SCHARG:** May I request that my client sit
24 behind me in the first row?

25 **THE COURT:** That will be fine. Go ahead.

1 **MR. GRAVELINE:** Good morning. So we set this
2 status conference in September when we were talking about
3 that there was going to be a superseding indictment in
4 this case, we have superseded, a third superseding
5 indictment, which has added three additional defendants
6 and additional counts to both existing defendants and to
7 the three new defendants as well.

8 Everyone now has been arrested and or made their
9 initial appearances on at least one of the indictments in
10 this case. There's a number of people who needs to be
11 arraigned on the third superseding indictment, and if the
12 Court is willing to do that, we can do that during this
13 proceeding or we can handle it in duty court at 1:00, but
14 I think we can have everyone arraigned on the third
15 superseding indictment by end of the day today.

16 So with that, we just put out about 1,100 more
17 pages discovery as of Friday. I talked to Mr. Anton
18 today. I think we put that out Friday night. So it
19 should be in the mail today and received today. That will
20 be given out to defense counsel. We have additional
21 discovery right now.

22 One of the tasks that we're going through is to
23 make sure that all of the lab results, all of the -- any
24 type of testing, any type of expert, I was going to
25 prepare an expert witness notice for defense in this case

1 hopefully no later than December 15th, so that they know
2 exactly who we might call in terms of experts, and what
3 types of evidence might be presented by experts by
4 December 15th, and I believe that we will have the
5 majority of the discovery out in this case by the end of
6 the year by December 31st in this case.

7 The issue that I think is going to come up from
8 the defense perspective is a lot of the discovery,
9 especially some of the things linking different defendants
10 to Jencks material, and so that might not be coming. It
11 might not be readily apparent how we're linking some of
12 the defendants to certain shootings until we release
13 Jencks, and that won't be until far closer to the trial,
14 but I believe what we will be able to disclose anything
15 non-Jencks will be done by December 31st in this case.

16 One of the things that I would like to do was
17 propose prospective trial groups to the Court today, and
18 essentially my methodology on this was to put anyone
19 facing death eligible charges in the first group, and then
20 fill in that group with defendants who are currently in
21 custody.

22 So the proposed trial groups -- and clearly this
23 is subject to both the Court's approval and defense
24 counsel's objections -- but the proposed trial group that
25 the government is going to put forward is in Trial Group

1 1, Billy Arnold, Quincy Graham, Robert Brown, Jerome
2 Gooch, James Robinson and Matleah Scott.

3 Trial Group 2 would be Corey Bailey, Michael
4 Rogers, Derrick Kennedy, Devon Patterson, Jeffrey Adams,
5 and Arlandis Shy.

6 Trial Group 3 would be Steven Arthur, Eugene
7 Fisher, Christopher Owens, Anthony Lovejoy, Diondre
8 Fitzpatrick and Donnell Hendrix.

9 I think the one exception to the rule that I think
10 immediately comes out is Corey Bailey, who we propose in
11 Trial Group 2 is one of the death eligible defendants.
12 However, the reason we put -- or suggested Mr. Bailey in
13 Trial Group 2 is he is serving a custodial sentence
14 already in the Bureau of Prisons, and so while he has not
15 been given a pretrial bond in this case, he's already in
16 incarcerated on another case.

17 So if we're going to try to get somebody who is in
18 pretrial custody case heard first, I thought that would be
19 best to move one of the other defendants who is being held
20 in pretrial incarceration before Mr. Bailey, and so that's
21 why we put him in Trial Group 2 as oppose to Group 1.

22 I had a brief conversation this morning with the
23 Court's case manager about what could possibly be some
24 realistic trial dates in this case. We initially started
25 looking at July, maybe toward the end of July for Trial

1 Group 1. I think based upon the Court's calendar, it
2 appears that the third week of August would probably be a
3 good trial date for Trial Group 1. I believe that would
4 give us time to resolve the death legibility defendants
5 and pretrial motions in this case. I anticipate at least
6 a two month long trial, and so if we began in the third
7 week of August, I would say trial would continue on until
8 at least mid-October.

9 For Trial Group 2, based on that, I would suggest
10 a mid-November trial date, and with a mid-November date,
11 that would probably go to the middle of January, and then
12 for Trial Group 3, a mid-February 2018 trial date.

13 **THE COURT:** When?

14 **MR. GRAVELINE:** Mid-February of 2018.

15 Now it's been my experience in these type of
16 cases, sometimes people plead out in a six defendant trial
17 group. So if someone in Group 2 wanted to have his case
18 heard before mid-November and be part of Trial Group 1, we
19 will be able to accommodate sliding people up into Trial
20 Group 1. We will work to resolve some of the cases by
21 pleas so we can have a better idea.

22 I don't know the Court's preference, but both
23 myself and several of the defense counsel on this case
24 have been part of large trials before. I think my only
25 personal opinion, seven becomes the absolute far end of a

1 big trial can be and be effective, but if the Court wants
2 less or more, I'll take whatever guidance you give on
3 that, but we thought we would start with at least this
4 initial group of six people.

5 **THE COURT:** Okay. All right. Does the
6 defense counsel have any comments on general concept of
7 making death eligible defendants the -- and other in
8 custody defendants up to comprise the first group for
9 trial? Does anybody think that is a bad idea?

10 **MR. FEINBERG:** Jim Feinberg for Mr. Brown.
11 Since Mr. Brown is just indicted on the death penalty
12 eligible counts, learned counsel has been appointed, but
13 he has not submitted his entire budget, and has not
14 started proceedings as far as what learned counsel needs
15 to do did, along with a litigation specialist and a
16 paralegal since he is not either here or on the phone, I
17 don't know how much time he is going project to be needed
18 for his job.

19 So I can't say that the August trial date is
20 realistic. I certainly have no objection if the death
21 penalty eligible count is approved by DOJ, for Mr. Brown
22 to be in Group 1, but if for some reason it is declined, I
23 don't know, when he is going to be going ready, but based
24 on that, I have no objection to being with Group 1 based
25 on Mr. Martin's litigation specialist being ready with

1 everybody else Group 1 to be tried.

2 **THE CLERK:** Thank you. I might just ask,
3 other than Mr. Spielfogel who is on the phone, any other
4 learned counsel here?

5 **MR. KOSELKE:** Eric Koselke on behalf of Mr.
6 Arnold. We would ask not to go with the first group for
7 several reasons: Number one, as Mr. Graveline indicated,
8 we don't have all the discovery yet in the case, and I
9 think there's a potential -- I don't think it's definite
10 yet -- for an additional superseding indictment or
11 potential additional defendants. That all will affect our
12 preparations.

13 I know I can speak on behalf of our defense team,
14 we have had significant difficulty obtaining records. The
15 more time we can get -- we're going to need more than the
16 non-eligible capital defendants to prepare the capital
17 phase, and therefore, we request to be placed in one of
18 the later groups.

19 **THE COURT:** All right.

20 **MR. FEINBERG:** Based on what he said, I
21 believe Mr. Martin, who is my learned counsel, would
22 probably want to do what was just suggested by prior
23 counsel's client.

24 **THE COURT:** All right. My first reaction to
25 the general question similar to what was just advanced by

1 learned counsel, that is that the process of deciding
2 death eligibility or not, whether it is going to be
3 withdrawn or not, from my prior experience, it is a pretty
4 dragged out process, and now with the change of
5 administration even more so, and in addition to the
6 argument that mitigation evidence will have to be the
7 subject of discovery, and in addition to the discovery
8 otherwise required. So what is your reaction, Mr.
9 Graveline?

10 **MR. GRAVELINE:** In terms of defense counsel
11 being in collection of their own mitigation evidence, I
12 can't speak to that. So if they need more time, they need
13 more time. I can't speak to that.

14 In terms of interacting with Washington D.C., it's
15 been my experience, less time is better. Making them make
16 a decision is better then giving them, well, you don't
17 have to make a decision until nine or 10 or a year from
18 now. They will take nine months, 10 months, 11 months to
19 make a decision because you've given them that much time.

20 That's why I proposed it this way. It's been my
21 experience working with Washington D.C. on these types of
22 issues, give them a deadline. Make them make a decision,
23 and then they will usually make a decision. Washington
24 D.C. is never going to make decision without us setting a
25 deadline to make a decision.

1 **THE COURT:** I see.

2 **MR. GRAVELINE:** And I think flexibility is
3 critical, and I definitely want to work with the defense
4 teams on that.

5 On the flip side, if we need to flip Trial Group 1
6 and Trial Group 2 and move things around, I can understand
7 that as well. It's just that my experience that
8 setting -- you know, this is a firm trial date. This is
9 when we need a decision to be made by. That advances the
10 process as oppose to take away from the process.

11 **MR. MINOCK:** John Minock for Corey Bailey.
12 In this case we don't have all the discovery yet, and the
13 breaking of the defendants into trial groups was just made
14 known I think to the defense this morning.

15 Speaking for Mr. Bailey, I can't tell you now
16 whether we have an objection or would seek a severance
17 from any of the defendants in Trial Group 2, simply
18 because we don't have all the information, and we haven't
19 analyzed the case with the eye towards that yet.

20 So preliminarily, I don't have problem with it,
21 but I want to be clear that depending on what we discover,
22 there maybe a severance issue down the road.

23 **MR. RATAJ:** Mike Rataj on behalf of Mr.
24 Graham.

25 I would echo Mr. Minock's comments regarding that

1 severance, and that I haven't looked at all of the
2 discovery, but I also want to put on the record that my
3 client has expressed his speedy trial rights. I can't
4 tell you where we are on that right now. I have not
5 calculated it, but if we go in August, we may have an
6 issue with speedy trial issues.

7 **THE COURT:** All right. We have had the last
8 of the defendants arrested and not yet arraigned?

9 **MR. GRAVELINE:** That's correct. We will
10 complete arraignments, and I believe speedy trial clock
11 starts today. The government will be making a motion to
12 toll the speedy trial clock based on regarding the
13 complexity of the case, some of the issues involved, the
14 number of defendants, and motion practice.

15 So we will be submitting that motion, if not
16 today, then by before Thanksgiving for the Court's
17 consideration.

18 **THE COURT:** All right.

19 **MR. SEIKALY:** Your Honor, Christopher Seikaly
20 on behalf of Mr. Gooch.

21 I would join in on Mr. Rataj's statement. I have
22 not gotten all of the discovery. There may be an issue to
23 sever, and then we got people that are not even involved
24 in any shootings or killings going to trial with someone
25 who's a death penalty case, that kind of takes the other

1 defendants down because of the severity of the charges of
2 the people who are assaultive and charged with the
3 killings, and individuals that can't be tied to any of
4 those. So that's an issue that we need to address.

5 **THE COURT:** We don't have -- I understand we
6 don't have a written motion yet.

7 **MR. GRAVELINE:** For the speedy trial?

8 **THE COURT:** The whole determination of the
9 groups.

10 **MR. GRAVELINE:** No, and so I'll put forth the
11 motion in a written motion for the Court's consideration,
12 and that will elicit a response from all defense counsel.

13 I will say this, in analyzing these trial groups,
14 we thought about what would the evidence be? Would it
15 change if -- could be less trial to Trial Group 2 as
16 oppose to Trial Group 1.

17 Based upon our analysis, we believe the evidence
18 is going to be the exact same in both -- at least the
19 first two trials, because the shootings and the murders
20 are all part of the RICO conspiracy. Everyone is charged
21 in RICO conspiracy. Whether, for example, Mr. Arnold is
22 sitting in Trial Group 1, the evidence of the shootings
23 charged to Mr. Arnold is going to be part of the evidence
24 on even Trial Group 2.

25 And so we believe that at least for the first two

1 trial groups, it's going to be almost a mirror image
2 trial, both in the first trial and second trial.

3 **THE COURT:** On the other hand, we have --
4 we'll have a considerable portion of the early trial
5 proceedings with the voir dire process and selecting
6 jurors who voice the ability and willingness to consider
7 the death penalty as an option in the case.

8 **MR. GRAVELINE:** If the death penalty is on
9 that table, and when D.C. makes the decision, we'll know
10 sooner rather than later, and then we can make more
11 intelligence decisions if it comes back as this is a death
12 eligible case. I agree with everybody. I think that
13 changes how this case gets tried.

14 **THE COURT:** Okay. And we'll have at this
15 point three?

16 **MR. GRAVELINE:** There are four people who
17 have death eligible charges against them.

18 **THE COURT:** My suggestion for you as you look
19 at this motion is to consider the possibility of just
20 making the death eligible defendants a class of
21 themselves, and we might very well get to the point of
22 determining the death eligible decision on the case
23 earlier rather than later, because we won't necessarily
24 get tied up and distracted by other issues that will be
25 shared in common with everyone. Just to consider that,

1 and then if you do and we reject that, we'll consider the
2 motion obviously that you will file.

3 **MR. GRAVELINE:** All right.

4 **THE COURT:** What else should we be
5 addressing?

6 **MR. GRAVELINE:** I think that's it from the
7 government's point of view.

8 **THE COURT:** Okay. All right. For defense
9 counsel, I know that I have some arraignments to conduct.
10 I will do that after we clear other issues that are upon
11 us. Ms. Mannarino?

12 **MS. MANNARINO:** Thank you. Maria Mannarino
13 on behalf of Mr. Arnold.

14 There are a couple of issues that Mr. Arnold has
15 asked me to bring to the Court's attention, and asked for
16 some guidance from the Court.

17 Mr. Arnold has been requesting to be moved from
18 his present location of -- he's at the St. Clair County
19 Jail. There's a number of issues that have arisen from
20 the St. Clair County Jail that have proven to be a great
21 concern to him.

22 One of them has to do with issues that he had
23 getting and being able to review the voluminous discovery
24 material. He's been provided with his discovery on flash
25 drives, but he's not been given access to it, and he's

1 been told that the flash drives have been lost. When he
2 has requested time to review the materials, he has not
3 been able to get that time. It's been extremely difficult
4 to prepare and go through the material with him when he is
5 not being given access to his discovery. Certainly, we're
6 seeking guidance on that.

7 He's also been asking to be moved because of
8 issues involving, quite frankly, threats that he has
9 gotten there. Apparently, there are others who are
10 located at that facility who -- and I'm not talking about
11 the defendants in this case -- but others who are at the
12 facility, quite frankly, he believes to be people who are
13 alleged to be victims in this case or connected to alleged
14 victims in this case who have been making threats, and so
15 we're very concerned about that, and he's asking to be
16 moved from that facility, from St. Clair. We're asking
17 the Court to consider doing what it can get him moved to
18 Milan.

19 Apparently, he's been told that one of the reasons
20 he can't go is because of separation in this case, and
21 we've asked, and we believe that it was at the request of
22 the prosecutor, and we would ask the prosecutor to revisit
23 that issue, because quite frankly, not all of the
24 defendants need to be separated from each other. So we
25 are asking the Court to revisit that issue of doing what

1 it can do get him to Milan for all of those reasons.

2 **THE COURT:** Thank you. Before we ask on this
3 issue, Mr. Seikaly?

4 **MR. SEIKALY:** Just the issue that my client
5 is at the Sanilac County Jail. In order to meet with him,
6 it's two and a half hours up two, and two and a half hours
7 back. There's no solitude for an attorney-client
8 discussion to take place in privacy.

9 I would ask the Court to perhaps move Mr. Gooch to
10 Milan. It's only 45 minutes away. It makes it a little
11 bit easier to go more times to see him, because one of the
12 complaints from Mr. Gooch is that I'm not giving him
13 enough time in going up to see him enough, and I
14 understand that. It's just you have to wipe out a day and
15 a half.

16 **THE COURT:** Thank you, Mr. Seikaly.

17 **MR. KOSELKE:** This is Eric Koselke. It's not
18 a placement issue, and it may be appropriate for another
19 discussion, but right now we have an informal agreement
20 with the government to a proffer by February 15th. I know
21 there's just been two additional death eligible defendants
22 added to the case, and I assume there's going to be an
23 extension on that time.

24 **MR. GRAVELINE:** Well, I can address what's
25 been raised.

1 First, I will double check on this, but it's my
2 understanding the only separation orders on this case
3 right now -- I don't believe there's any separation orders
4 between the defendants on this case. If there's any
5 separation orders, it might be between any of the
6 defendants and other people who are charged by the federal
7 government in other cases, but I will double check on
8 that. I don't believe there are any separation orders
9 between the defendants, and if there is, I will double
10 check that.

11 I know, for example, there's at least four or five
12 of the defendants who are altogether at Sanilac right now,
13 and so I will double check. If I'm wrong, I'm wrong, and
14 I will double check, but it's my understanding there
15 weren't any but I will double check.

16 **MR. RATAJ:** Mike Rataj on behalf of Mr.
17 Graham.

18 There is a separation order, at least as to Mr.
19 Graham and Mr. Arnold. That I know for a fact. I'm not
20 sure as to any other defendants, but I know between my
21 client and Mr. Arnold there is a separation order.

22 **MR. GRAVELINE:** Okay. I'll double check.

23 **MS. MANNARINO:** When the prosecutor says that
24 he will check, will it be lifted?

25 **MR. GRAVELINE:** I will check as to each

1 defense counsel because some may have been separated from
2 somebody else.

3 **MS. MANNARINO:** On behalf of Mr. Arnold, he
4 has not made that request, and if we can get that lifted,
5 that would be great.

6 **THE COURT:** Okay.

7 **MR. GRAVELINE:** I'll work on that issue.

8 In terms of the deadline submissions, if Ms.
9 Mannarino and Mr. Koselke are looking for additional time
10 for Mr. Arnold, we can accommodate that.

11 I personally was viewing it because they have been
12 in the case longer than the two new defendants -- well,
13 Mr. Brown being new as a death eligible defendant -- and
14 that those timelines are not necessarily hooked together
15 at the same time. If I can, I want to resolve that issue
16 for any defendant as quickly as I possible can. Figure
17 out which way it's going to go. I don't figure those four
18 defendants decisions being coupled together. If somebody
19 is ready to submit and make a recommendation, let's get it
20 done. If another two or three need additional time, then
21 we'll give them additional time. I don't view those four
22 as being a block that we will wait and give it all at one
23 time to Washington D.C. The sooner we can resolve it, I
24 think the better off we are in terms of everyone knowing
25 the landscape of the case, and so if that's your request,

1 you're seeking additional time, we can do that.

2 **MR. KOSELKE:** Yes.

3 **MR. GRAVELINE:** But if somebody else is ready
4 to go on February 15th, I more than welcome to that too.

5 **THE COURT:** Okay. Thank you. All right.
6 Anyone else with the placement issue? Okay.

7 Any other issues? Mr. Scharg?

8 **MR. SCHARG:** Henry Scharg. A couple of
9 discovery issues, your Honor. First of all, it's my
10 understanding that although we have three groups with
11 scattered trial dates --

12 **THE COURT:** We don't have that yet. We're
13 waiting for written motions, and then we'll seek your
14 input along with other defense counsel.

15 **MR. SCHARG:** The issue is that can I
16 anticipate that when Jencks Act material is released to
17 the first group, that it will be released to all groups?

18 **MR. GRAVELINE:** I don't think so. I think
19 we'll be putting that Jencks material up pursuant to a
20 protective order for each trial group.

21 **MR. SCHARG:** Second of all, as the Court
22 knows when we were first before the Court, we requested
23 the appointment of a discovery coordinator in this case.
24 It was part of our budget, and at that time he's servicing
25 all the defendants, and because of the fact that now with

1 the dissemination of all materials and added defendants,
2 some of them death eligible, his budget is almost
3 exhausted.

4 So we've had some discussion for the Court's
5 consideration in that we're asking in terms of the
6 non-death eligible attorneys, that the death eligible
7 defendants submit their own budgets with Mr. Anton or
8 another discovery coordinator so it doesn't further
9 exhaust our budget, and to pick up part of the cost --
10 part of their expenses in their budget so we have more
11 room. We will need more room based upon the disclosure
12 from the government today that here's going to be at least
13 two additional discovery dumps in this case. And as I've
14 said, we've almost exhausted our budget for our
15 coordinator because of the additional work that attorneys
16 from the death eligible defendants have requested.

17 **THE COURT:** As it stands now, the coordinator
18 is acting on behalf of all the defendants?

19 **MR. SCHARG:** Yes, and then for that reason
20 he's exhausted almost his entire budget, and we've
21 approached some of the learned counsel regarding that fact
22 that when they approach the Court for their budget, they
23 should include a discovery coordinator, Mr. Anton or
24 someone else so that relieves us.

25 **THE COURT:** Have you talked to any of the --

1 **MR. SCHARG:** Yes. I wanted to bring it to
2 your attention also so when they discuss their budgets,
3 you will have that in mind.

4 **THE COURT:** Okay.

5 **MR. MINOCK:** John Minock for Corey Bailey.

6 I indicated to Mr. Scharg that I would be filing a
7 motion to amend our budget for a discovery coordinator and
8 paralegal. I also indicated to him that I am going to
9 consult with Robert Rand, the Sixth Circuit budget
10 attorney, regarding the way the Sixth Circuit wants to pay
11 him, and we'll will be submitting an amended budget when I
12 speak to him.

13 **MS. MANNARINO:** Maria Mannarino. On behalf
14 of Mr. Arnold, we too will follow up in the appropriate
15 manner.

16 **THE COURT:** Okay. Other than the
17 arraignments, are there any other issues that you think we
18 need to be address?

19 **MR. GRAVELINE:** No.

20 **THE COURT:** As it relates to placement, I
21 think the first discussion should take place with the
22 government, and I'm certainly willing to hear from
23 counsel. We can do it by way of a telephone conference
24 and have that recorded so that we don't need to wait for a
25 hearing date to come up to address placement, but I think

1 logically the first discussion should be between counsel
2 and the government and see if you can work that out short
3 of my intervention.

4 So for those of you who are going to be arraigned,
5 how many individuals do we have?

6 **MR. SCHARG:** Mr. Fisher.

7 **THE COURT:** So we have four. So we can do
8 that.

9 **MR. GRAVELINE:** Maybe we can just handle it
10 rights now before we excuse everybody.

11 **THE COURT:** Right.

12 **MR. GRAVELINE:** So I believe first one is
13 Mr. Arthur, Defendant Number 2.

14 **MR. MCMANUS:** John McManus on behalf of Mr.
15 Arthur. We have provided the Court in advance of his
16 acknowledgement of the third superseding indictment, and
17 we're prepared to proceed for indictment.

18 **THE COURT:** All right. So the Court has been
19 presented in this case with Mr. Arthur's acknowledgement
20 of the third superseding indictment?

21 **MR. MCMANUS:** That's correct.

22 **THE COURT:** The charges are identified in
23 that acknowledgement, and so have you had the opportunity
24 Mr. McManus to go over the third superseding indictment
25 with your client?

1 **MR. MCMANUS:** I have, your Honor.

2 **THE COURT:** And you understand Mr. Fisher
3 (sic), you're charged in Count 1 of --

4 **MR. GRAVELINE:** It's RICO conspiracy, your
5 Honor.

6 **MR. MCMANUS:** RICO conspiracy for Mr. Arthur.

7 **THE COURT:** And the maximum penalty for that
8 violation is up to life imprisonment, maximum fine of
9 \$250,000 provided by statute, you understand that?

10 **DEFENDANT ARTHUR:** Yes, sir.

11 **THE COURT:** Okay. In Count 25, the charge --

12 **MR. GRAVELINE:** It's Count 32, and that's
13 924(c), possession of a firearm in furtherance of a crime
14 of violence, with a mandatory minimum of five years up to
15 life imprisonment and a \$250,000 fine.

16 **THE COURT:** Do you want to state the other
17 charges remaining?

18 **MR. GRAVELINE:** Those are two against
19 Mr. Arthur.

20 **THE COURT:** I see. Okay.

21 **MR. GRAVELINE:** Maybe you were looking at the
22 wrong acknowledgement. For Mr. Arthur, it is Count 1 and
23 Count 32.

24 **THE COURT:** I'm sorry. I was presented with
25 papers relating to more than one defendant. I'm sorry.

1 So we have two counts.

2 MR. GRAVELINE: That's correct.

3 THE COURT: And you understand the charges
4 from your discussion with Mr. McManus?

5 DEFENDANT ARTHUR: Yes, sir.

6 THE COURT: And you understand what the
7 maximum penalties are as recited?

8 DEFENDANT ARTHUR: Yes, sir.

9 THE COURT: The plea would be?

10 MR. MCMANUS: We stand moot, and ask the
11 Court to enter a not guilty plea and continue the bond.

12 THE COURT: All right. Any objection to the
13 request?

14 MR. GRAVELINE: No, your Honor.

15 THE COURT: The Court will continue the bond
16 and enter a not guilty plea for Mr. Arthur.

17 MR. MCMANUS: Thank you, your Honor.

18 THE COURT: You're welcome. You waive the
19 reading of the information?

20 MR. MCMANUS: Waive the reading.

21 MR. GRAVELINE: Next one is Mr. Fisher,
22 Defendant Number 3.

23 THE COURT: All right.

24 MR. SCHARG: Henry Scharg on behalf of Eugene
25 Fisher.

1 We acknowledge the third superseding indictment,
2 waive the reading, stand moot. We've also executed a copy
3 of the acknowledgement of the third superseding
4 indictment. I have gone over the charges with my client
5 and the maximum sentences that the Court could impose upon
6 him upon conviction, and he has signed his name to it. I
7 have gone over the third superseding indictment with him,
8 and have gone over acknowledgement with him.

9 **THE COURT:** All right. Mr. Fisher, you
10 understand what's been said?

11 **DEFENDANT FISHER:** Yes, your Honor.

12 **THE COURT:** You had a chance to go over the
13 third superseding indictment with Mr. Scharg?

14 **DEFENDANT FISHER:** Yes, sir.

15 **THE COURT:** You believe you understand the
16 charges?

17 **DEFENDANT FISHER:** Yes.

18 **THE COURT:** You understand the maximum
19 penalties that are applied to the charges?

20 **DEFENDANT FISHER:** Yes, your Honor.

21 **THE COURT:** And the minimum statutory
22 penalties as well?

23 **DEFENDANT FISHER:** Yes, your Honor.

24 **THE COURT:** Do you have any questions
25 concerning that?

1 **DEFENDANT FISHER:** No, your Honor.

2 **THE COURT:** All right. You're asking the
3 Court to enter a not guilty plea on your behalf?

4 **DEFENDANT FISHER:** Yes, your Honor.

5 **THE COURT:** The Court will do so. The
6 maximum penalty for Count 1 is up to life imprisonment and
7 a \$250,000 or both, you understand that?

8 **DEFENDANT FISHER:** Yes, your Honor.

9 **THE COURT:** Count 25 carries up to 10 years
10 imprisonment and a \$250,000 fine or both, you understand
11 that?

12 **DEFENDANT FISHER:** Yes, your Honor.

13 **THE COURT:** Count 26 carries a maximum
14 penalty of 20 years in prison and up to a \$250,000 fine or
15 both, you understand that?

16 **DEFENDANT FISHER:** Yes, your Honor.

17 **THE COURT:** Count 27 is carries up to 10
18 years in prison and a \$250,000 fine or both, you
19 understand that?

20 **DEFENDANT FISHER:** Yes, your Honor.

21 **THE COURT:** Count 32 carries a maximum
22 penalty provided by statute of life in prison, minimum
23 penalty of -- I'm sorry -- five years in prison, maximum
24 of \$250,000 in fines or both, you understand that?

25 **DEFENDANT FISHER:** Yes, your Honor.

1 **THE COURT:** And Count 33 carries up to 10
2 years in prison, a \$250,000 fine or both, you understand
3 that?

4 **DEFENDANT FISHER:** Yes, your Honor.

5 **THE COURT:** And lastly Count 35, up to 10
6 years in prison, \$250,000 fine or both, you understand
7 that?

8 **DEFENDANT FISHER:** Yes, your Honor.

9 **THE COURT:** Okay.

10 **MR. GRAVELINE:** The only other thing to add
11 from the government's point of view of Mr. Fisher is he
12 also is currently charged in a separate indictment 15-
13 20751. That charge is now incorporated into the third
14 superseding indictment in this case. So we will be filing
15 a motion to dismiss that felon in possession in that
16 separate indictment, which is in front of your Honor as
17 well.

18 So the Court can be anticipating a motion to
19 dismiss.

20 **MR. SCHARG:** We have no objection to that.

21 **THE COURT:** Okay.

22 **MR. SCHARG:** One final matter, your Honor.
23 We ask that bond be continued with the caveat that we will
24 be filing a motion to modify the conditions of bond. That
25 will be in writing at a later time.

1 **THE COURT:** All right. Did you waive the
2 reading?

3 **MR. SCHARG:** We did.

4 **THE COURT:** Thanks. The Court will continue
5 the bond.

6 **MR. SCHARG:** Thank you, your Honor.

7 Next is Mr. Gooch?

8 **MR. GRAVELINE:** That's correct, your Honor.

9 **THE COURT:** All right. Mr. Seikaly.

10 **MR. SEIKALY:** We would waive the formal
11 reading of the indictment and stand moot. He has signed
12 the defendant's acknowledgement of the third superseding
13 indictment. We have reviewed the indictment together, and
14 he understands what charges are.

15 **THE COURT:** All right. Mr. Gooch, you
16 understand what's been said?

17 **DEFENDANT GOOCH:** Yes.

18 **THE COURT:** And you believe that you
19 understand the charges that are made against you in this
20 third superseding indictment, both in Count 1 and Count
21 32?

22 **DEFENDANT GOOCH:** Yes, your Honor.

23 **THE COURT:** And so you understand that the
24 maximum penalty for the violation charged in Count 1 is up
25 to 20 years in prison and a \$250,000 fine or both?

1 **DEFENDANT GOOCH:** Yes, your Honor.

2 **THE COURT:** And the maximum penalty in Count
3 32 is up to life in prison, and a maximum fine up to
4 \$250,000 or both, and that the a minimum sentence for the
5 violation in Count 32 is five years in prison, you
6 understand that?

7 **DEFENDANT GOOCH:** Yes, your Honor.

8 **THE COURT:** You have gone over the third
9 superseding indictment with Mr. Seikaly?

10 **DEFENDANT GOOCH:** Yes.

11 **THE COURT:** You believe you understand
12 charges that have been made against you?

13 **DEFENDANT GOOCH:** Yes, your Honor.

14 **THE COURT:** Anything else that relates to Mr.
15 Gooch?

16 **MR. GRAVELINE:** Nothing.

17 **THE COURT:** All right. The Court will
18 continue the detention order, and enter a not guilty plea
19 to the charges.

20 **MR. SEIKALY:** Thank you.

21 **MR. GRAVELINE:** I had a conversation
22 Mr. Bailey's attorney, and we are prepared do his
23 arraignment at this time.

24 **THE COURT:** Mr. Spielfogel, is there anything
25 else that you want to weigh in on while you are on the

1 phone?

2 **MR. SPIELFOGEL:** No. I had things, but it
3 seems to me all have been covered by other learned counsel
4 and by Mr. Minock. I would just concur with them that we
5 originally, per the Court's order -- have been trying to
6 get this submission in shape by February 15th. That's
7 been a real slow go. We're trying to get there. I would
8 agree with Mr. Koselke that we will need more time than
9 that, and with the additional death eligible defendants,
10 it doesn't seem like that date will be realistic, but we
11 will continue to work on it. We will get there as quickly
12 as we can, Judge.

13 **THE COURT:** Thank you, sir.

14 **MR. GRAVELINE:** I'm delivering to the Court
15 Mr. Bailey's acknowledgement.

16 **THE COURT:** Mr. Bailey is seated where?
17 Okay. So Mr. Minock?

18 **MR. MINOCK:** Yes, Judge. Waive the reading
19 of the indictment I would note that Mr. Bailey has not
20 received a copy of the indictment until this morning, but
21 when I visited him last Thursday, we discussed at the time
22 the details of it, and the changes from the second to the
23 third superseding indictment. We are ready to proceed
24 with the arraignment on those counts which he's charged.

25 **THE COURT:** Okay. So Mr. Bailey, you had a

1 chance to review the third superseding indictment that
2 state the charges brought against you?

3 **DEFENDANT BAILEY:** Yes, I have.

4 **THE COURT:** And you understand the nature of
5 the charges that are facing you?

6 **DEFENDANT BAILEY:** Yes, I do.

7 **THE COURT:** You understand that the charges
8 in Count 1 carries a maximum penalty of life in prison,
9 \$250,000 fine or both?

10 **DEFENDANT BAILEY:** Yep.

11 **THE COURT:** And then Count 4, up to death
12 penalty or life in prison, and a \$250,000 fine or both,
13 you understand that?

14 **DEFENDANT BAILEY:** Yes, I understand.

15 **THE COURT:** Count 5, you're also facing
16 charges, if convicted, that's punishable by a maximum
17 penalty of death or life in prison, \$250,000 in fines or
18 both, you have understand that?

19 **DEFENDANT BAILEY:** I understand.

20 **THE COURT:** Count 6, you're facing up to 10
21 years in prison and a \$250,000 fine or both, you
22 understand that?

23 **DEFENDANT BAILEY:** Yes.

24 **THE COURT:** Count 7, up to 20 years in
25 prison, \$250,000 fine or both, you understand that?

1 **DEFENDANT BAILEY:** Yes, I understand.

2 **THE COURT:** Count 8, up to 20 years in
3 prison, \$250,000 fine or both, you understand that?

4 **DEFENDANT BAILEY:** Yes.

5 **THE COURT:** Count 9, up 20 years in prison,
6 \$250,000 fine or both, you understand that?

7 **DEFENDANT BAILEY:** Yes.

8 **THE COURT:** Count 10, up to 20 years in
9 prison, \$250,000 fine or both, you understand that?

10 **DEFENDANT BAILEY:** I understand.

11 **THE COURT:** Count 11, up to 20 years in
12 prison, \$250,000 or both, you understand that?

13 **DEFENDANT BAILEY:** Yes.

14 **THE COURT:** Count 12, 10 years to -- 10 year
15 mandatory minimum sentence up to life in prison, \$250,000
16 fine or both, you understand that?

17 **DEFENDANT BAILEY:** Yes.

18 **THE COURT:** And Count 32, minimum sentence of
19 10 years -- five years in prison and a maximum penalty of
20 life in prison, and a \$250,000 fine or both, you
21 understand that?

22 **DEFENDANT BAILEY:** Yes.

23 **THE COURT:** You understand you're asking the
24 Court to enter a not guilty plea for all of the charges?

25 **DEFENDANT BAILEY:** Yes.

1 **THE COURT:** And that you're waiving your
2 right to have the indictment read to you in its entirety
3 this morning, you understand that?

4 **DEFENDANT BAILEY:** Waiving?

5 **THE COURT:** Just waiving the right to have me
6 read the entire indictment to you, you understand that?

7 **DEFENDANT BAILEY:** I would like to hear -- I
8 didn't know I was waiving everything.

9 **THE COURT:** All right. You have a copy of
10 that indictment, sir?

11 **DEFENDANT BAILEY:** You say what?

12 **THE COURT:** You have a copy of the
13 indictment?

14 **DEFENDANT BAILEY:** Right here this
15 indictment. I see it.

16 **THE COURT:** I'm sorry?

17 **DEFENDANT BAILEY:** Yes, I have copy of the
18 indictment.

19 **THE COURT:** And you had a chance to discuss
20 it with Mr. Minock?

21 **DEFENDANT BAILEY:** We discussed it.

22 **THE COURT:** All right. Thank you. The Court
23 will enter a not guilty plea on your behalf.

24 **MR. MINOCK:** May I have a moment to confer
25 with my client please?

1 **THE COURT:** Sure.

2 **DEFENDANT BAILEY:** You ain't got to read it.
3 I understand. We went over it.

4 **THE COURT:** All right. Thank you, sir.
5 Okay. The Court will enter not guilty plea as it relates
6 to each of the counts for Mr. Bailey.

7 Anything else?

8 **MR. GRAVELINE:** I believe that's everyone --
9 or Mr. Rogers?

10 **MR. MULLKOFF:** Mr. Rogers is prepared. Doug
11 Mullkoff on behalf of Michael Rogers.

12 **MS. MANNARINO:** May we be excused?

13 **THE COURT:** Yes. You don't have an
14 arraignment?

15 **MS. MANNARINO:** We have already been
16 arraigned.

17 **THE COURT:** Okay. Mr. Rogers, have you had
18 an opportunity to go over the third superseding indictment
19 with Mr. Mullkoff?

20 **DEFENDANT ROGERS:** Yes.

21 **THE COURT:** And he has explained the nature
22 of the charges against you?

23 **DEFENDANT ROGERS:** Yes.

24 **THE COURT:** Mr. Mullkoff?

25 **MR. MULLKOFF:** There has been no changes as

1 applied to Mr. Rogers between the previous indictment and
2 this one. This indictment are Counts 1 and 32. 924(c) is
3 Count 32, and Count 1 is racketeering. We ask the Court
4 to enter a not guilty plea on his behalf, and we would
5 waive the formal reading of the indictment.

6 **THE COURT:** Okay. And Mr. Rogers, you
7 understand if convicted on Count 1, the maximum penalty is
8 up to life in prison, \$250,000 fine or both?

9 **DEFENDANT ROGERS:** Yes.

10 **THE COURT:** As it relates to the charges in
11 Count 32, if convicted on the 924(c) violation, you would
12 face a mandatory minimum sentence of five years up to a
13 maximum of life in prison, \$250,000 fine or both?

14 **DEFENDANT ROGERS:** Yes.

15 **THE COURT:** And you are waiving your right to
16 have me read the charges?

17 **DEFENDANT ROGERS:** Yes.

18 **THE COURT:** Okay. Any questions that you
19 have?

20 **DEFENDANT ROGERS:** No.

21 **MR. MULLKOFF:** Thank you, Judge.

22 **THE COURT:** The Court will continue the
23 detention order, enter a not guilty plea to both
24 violations.

25 I think that's it. Anything else?

1 **MR. GRAVELINE:** That's it from the
2 government.

3 **THE COURT:** Okay.

4
5 (Proceedings concluded.)

6 - - -

7 **C E R T I F I C A T I O N**

8 I, Ronald A. DiBartolomeo, official court
9 reporter for the United States District Court, Eastern
10 District of Michigan, Southern Division, appointed
11 pursuant to the provisions of Title 28, United States
12 Code, Section 753, do hereby certify that the foregoing is
13 a correct transcript of the proceedings in the
14 above-entitled cause on the date hereinbefore set forth.

15 I do further certify that the foregoing
16 transcript has been prepared by me or under my direction.

17
18 s/Ronald A. DiBartolomeo

May 9, 2019

19 _____
Ronald A. DiBartolomeo, CSR
Official Court Reporter

Date

20 - - -